

## Bureau of Indian Affairs, Interior

## § 15.107

associated or someone who knows about the decedent's death that supports the information in paragraph (a) or (b) of this section.

### **§ 15.102 May I notify the BIA of a death if I am not related to the decedent?**

Yes. You do not need to be related to the decedent in order to notify us of the death. You can be a friend, neighbor, or any other interested party.

### **§ 15.103 When should the BIA be notified of a death?**

There is no deadline for notifying us of a death. However, you should notify us of a death as soon as possible after the person dies.

### **§ 15.104 What other documents does the BIA need to process a probate package?**

(a) You should provide us with the following documents and information before we can begin to process the probate package.

- (1) Social Security number of the decedent;
- (2) The birth certificate or other record of birth of the decedent;
- (3) All death records including those listed in § 15.101;
- (4) A list of known creditors against the estate and their addresses;
- (5) Current names and addresses of potential heirs and beneficiaries;
- (6) Any statements renouncing an interest in the estate;
- (7) Documents from a court of competent jurisdiction, including but not limited to:
  - (i) All marriage licenses of the decedent;
  - (ii) All divorce decrees of the decedent;
  - (iii) Adoption and guardianship records relevant to the decedent;
  - (iv) Any sworn statements regarding the decedent's family, including any statements of paternity or maternity;
  - (v) Any name changes; and
  - (vi) Order requiring payment of child support;
- (8) All original or certified copies of wills and codicils, and any revocations; and
- (9) Any additional documents you provide or that we request.

(b) You must inform us if any of the documents or information identified in this part are not available.

### **§ 15.105 Will the BIA wait to begin the probate process until it is notified of the decedent's death?**

No. We may find out about the death of a person without being notified by an interested party. If we do, and if the decedent meets the criteria in § 15.3, we will initiate the process to collect the necessary documentation. You should not assume that we will find out about a death. To assure timely distribution of the estate, you should notify us as provided in § 15.101.

### **§ 15.106 Can I get emergency assistance for funeral services from the decedent's IIM account?**

(a) If you are responsible for making the funeral arrangements on behalf of the family of a decedent who had an IIM account and you have an immediate need to pay for funeral arrangements prior to burial, you may make a request to the BIA for up to \$1,000 from the decedent's IIM account if the decedent's IIM account has more than \$2,500 in the account at the date of death.

(b) You must apply for this assistance and submit to the BIA an original itemized estimate of the cost of the service to be rendered and the identification of the service provider.

(c) We may approve reasonable costs up to \$1,000 that are necessary for the burial services, taking into consideration the total amount in the account, the number of probable heirs or beneficiaries of whom we are aware, the amount of any claims against the account of which we are aware, and any other relevant factor.

(d) We will make payments directly to the providers of the services.

### **§ 15.107 Who prepares an Indian probate package?**

The probate specialist or probate clerk at the agency or tribe where the decedent is an enrolled member will prepare the probate package in consultation with the probable heirs or beneficiaries who can be located.

## § 15.108

### **§ 15.108 What agency prepares the probate package if the decedent was not an enrolled member of a tribe or is a member of more than one tribe?**

(a) If the decedent was not an enrolled member of a tribe, but owns interests in trust or restricted property, the agency that has jurisdiction over the tribe with the strongest association with the decedent will prepare the probate package, unless otherwise provided by federal law.

(b) If the decedent was is a member of more than one tribe, the agency that has jurisdiction over the tribe with the strongest association with the decedent will prepare the probate package, unless otherwise provided by federal law.

### **§ 15.109 Can a probable heir or beneficiary give up his/her interest in trust or restricted lands or trust funds?**

Unless otherwise provided by federal law or a tribal inheritance code approved by the Secretary, you must file a statement renouncing your interest with the BIA or the OHA before the deciding official issues an order.

(a) If you are a non-Indian and 21 years or older, you may give up all or part of your interest by submitting a notarized statement in which you renounce your interest in the estate.

(b) If you are an Indian and 21 years or older and you wish to give up all or part of your interest in the estate, we must refer your request to the OHA in accordance with 43 CFR 4.208.

## **Subpart C—Preparing the Probate Package**

### **§ 15.201 What will the BIA do with the documents that I provide?**

Once we receive the documents that you provide us under § 15.105, the probate specialist or probate clerk will:

(a) Use the documents to prepare a probate package; and

(b) Consult with you and any other sources to obtain any additional information needed for a complete package.

## 25 CFR Ch. I (4–1–04 Edition)

### **§ 15.202 What must the complete probate package contain?**

The complete probate package must contain all of the following:

(a) A certified copy of the death certificate, if one exists, or some other reliable evidence of death as required by § 15.101;

(b) A completed Form OHA-7, “Data for Heirship Findings and Family History,” certified by the BIA;

(c) A certified inventory of trust or restricted real property;

(d) A statement describing all income generating activity;

(e) A copy of the decedent’s IIM account ledger showing:

(1) The balance of the account at the date of death; and

(2) The balance of the account at the date of probate package submission;

(f) All original or certified copies of wills, codicils and any revocations of wills or codicils;

(g) Any statements renouncing interest that have been submitted to the agency;

(h) Claims of creditors against the estate;

(i) All documentation of payment of claims paid prior to probate proceeding;

(j) All other documents required in § 15.105;

(k) Tribal options to purchase interests of a decedent;

(l) Affidavit of the probate clerk or probate specialist that all efforts to locate the probable heirs and beneficiaries have been exhausted; and

(m) Any other documentation that may be required at the time of probate proceedings.

### **§ 15.203 What happens after the BIA prepares the probate package?**

Within 30 days after all the documents required by § 15.105 and § 15.202 are received, a probate specialist will review the probate package and determine who will be the appropriate deciding official.

(a) If the decedent’s estate contains only trust cash assets of a value less than \$5,000 not including any interest that may have accrued after the death of the decedent, the probate package may be processed in accordance with § 15.206 and may be referred to a BIA